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10/662,168	09/10/2003	Diego Dayan	UVI 3.9-007 CONT	1690

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Mr. Daniel Rainer
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New York, NY 10011

EXAMINER

ZAHR, ASHRAF A

ART UNIT	PAPER NUMBER
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2109

MAIL DATE	DELIVERY MODE
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09/19/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/662,168

Applicant(s)

DAYAN ET AL.

Examiner

Ashraf Zahr

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 11-14, 21-25 and 33 is/are rejected.
- 7) ☒ Claim(s) 4-10, 15-20, 26-32 and 34-39 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-39 are pending in this application. Claims 1, 12, 21, and 23 are Independent Claims.

Specification

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

3. Claims 4-10, 15-20, 26-32, and 34-39 are objected to under 37 CFR 1.75(c) as being in improper form because of a multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims not been further treated on the merits.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 33 recites the limitation "the generator" in the claim language.

There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-2, 11-12, 14, 23-24, and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Kawabata et al., US Patent Number 6,892,223 (Hereinafter, Kawabata).

Regarding Claim 1, Kawabata discloses “a method for modifying an image produced by an application program on the display screen of a computer system”. Specifically, Kawabata introduces a method of method displaying a character on a screen through an application file (Kawabata, col 5, ln 58-67).

Kawabata also discloses, “the computer system running the application program under an operating system having a graphical user interface”. Specifically Kawabata discloses a system with Windows or MacOS (Kawabata, col 8, ln 60-65).

Kawabata also discloses, “the method comprising the steps of introducing into the screen a multimedia animated character”. Specifically, Kawabata

discloses a method of a method of introducing a character onto the screen (Kawabata, Fig 12).

Kawabata also discloses, "said character being a changing image which appears on the screen intrusively in a manner which is unpredictable for the computer user and which is completely beyond the user's control". Specifically, the movement of the character in Kawabata is based upon configuration files and is out of the users control (Kawabata, col 5, ln 58-67).

Kawabata also discloses, "said character being produced by executable code provided to the computer system, the executable code being determined by what other executable code is available on the computer system". Specifically, Kawabata discloses executable code and other files on a system that determine how a character is displayed (Kawabata, col 5, ln 58-67).

Regarding Claim 2, Kawabata also discloses, "said character moves translationally on the computer screen". Specifically, Kawabata discloses the character moves freely around the desktop of the computer (Kawabata, col 5, ln 53-56).

Regarding Claim 11, Kawabata also discloses, "the executable code for the character is incorporated in one of installation media and an installation file for the application program, and the executable code is installed at the same time as the application program". Specifically, Kawabata states that data for displaying character is comprised of an EXE file that is an application file for

combining data with each other and displaying and operating them on the desktop (Kawabata, col 5, ln 58-61). Furthermore, Kawabata discloses the installation of the tuner or the program for displaying the character on the user terminal (Kawabata, col 10, ln 9-27).

Regarding Claim 12, Kawabata also discloses, “a method for introducing advertising material into multimedia content being viewed by a user over a computer network in which the user's computer is a client running an application program under an operating system having a graphical user interface”. Specifically, Kawabata introduces a method of method displaying a character and advertisement data on a screen through a tuner (Kawabata, col 6, ln 17-24).

Kawabata also discloses, “the content being received from a content provider' computer acting as a content server, there also being connected to the network a computer operated by a media source acting as a character controlling server”. Specifically, Kawabata discloses a management server for character information and a content server for displaying the character (Kawabata, Fig 11).

Kawabata also discloses, “sending content from the content server to the client and providing in the content a tag communicating to the character controlling server”. Specifically, the management server sends character list information and character selection (Kawabata, Fig 12, Steps 507-511)

Kawabata also discloses, “at the character controlling server, upon being contacted by the client, transferring to the client control signals that will produce on the clients computer display of the content of a multimedia animated

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character". Specifically, the management server sends character display data and scheduling along with advertisement information (Kawabata, Fig 12, Steps 512-517).

Kawabata also discloses, "said character being a changing image which appears on the content intrusively in a manner which is unpredictable for the computer user and which is completely beyond the his control". Specifically, the movement of the character in Kawabata is based upon configuration files and is out of the users control (Kawabata, col 5, ln 58-67).

Kawabata also discloses, "the control signals being determined by what executeable code is available on the user's computer. Specifically, Kawabata discloses executeable code and other files on a system that determine how a character is displayed (Kawabata, col 5, ln 58-67).

Regarding Claim 14, Kawabata also discloses, "said character moves translationally on the computer screen". Specifically, Kawabata discloses the character moves freely around the desktop of the computer (Kawabata, col 5, ln 53-56).

Regarding Claim 23, Kawabata discloses, "a system for modifying an image produced by an application program on the display screen of a computer". Specifically, Kawabata introduces a method of method displaying a character on a screen through an application file (Kawabata, col 5, ln 58-67).

Kawabata also discloses, "the computer running the application program under an operating system having a graphical user interface". Specifically Kawabata discloses a system with Windows or MacOS (Kawabata, col 8, ln 60-65).

Kawabata also discloses, "a generator of media signals which are configured to produce on the user's display of the application program a multimedia animated character". Specifically, Kawabata discloses a tuner (Kawabata, col 6, ln 16-24).

Kawabata also discloses, "the content of the media signals being determined by what executeable code is available on the user's computer". Specifically, Kawabata discloses that the characters are displayed in accordance with files on the computer that determine how the character is displayed (Kawabata, col 5, ln 58-67).

Kawabata also discloses, "said character being a changing image which appears on the screen intrusively in a manner which is unpredictable for the computer user and which is completely beyond the user's control". Specifically, the movement of the character in Kawabata is based upon configuration files and is out of the users control (Kawabata, col 5, ln 58-67).

Kawabata also discloses, "means for introducing the character to the user's computer display". Specifically, Kawabata discloses executeable code and other files on a system that determine how a character is displayed (Kawabata, col 5, ln 58-67).

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Regarding Claim 24, Kawabata also discloses, "said media signals are configured to produces a character that moves translationally on the computer screen". Specifically, Kawabata discloses the character moves freely around the desktop of the computer (Kawabata, col 5, ln 53-56).

Regarding Claim 33, Kawabata also discloses, "the system of claim 1, wherein the generator comprises a computer program that is installed on the user's computer at the same time as the application program from one of installation media and an installation file for the application program". Specifically, Kawabata discloses a tuner (Kawabata, col 6, ln 16-24).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 13 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawabata et al., US Patent Number 6,892,223 (Hereinafter, Kawabata) in view of Nakisa, US Patent Number 6,968,315 (Hereinafter, Nakisa).

Regarding Claim 13, Kawabata does not specifically disclose, “the media source receives payment based upon the number of accesses to a character and the duration of an access”. Nakisa remedies this with the disclosure of using its advertising infrastructure to be equipped so as to allow clients, which access these pages to conduct transactions (Nakisa, col 3, ln 1-4). It would be obvious to one of ordinary skill at the time of the invention to modify character and advertisement system of Kawabata to be able to conduct transactions as in the disclosure of Nakisa. The motivation to combine the two references would be to order particular products or services and to pay for them over the Web (Nakisa, col 3, ln 3-5).

10. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kawabata et al., US Patent Number 6,892,223 (Hereinafter, Kawabata) in view of Linnett et al., US Patent Number 5,682,469 (Hereinafter, Linnett).

Regarding Claim 21, Kawabata discloses, “a method for providing a from a sender to a recipient over a computer network in which the computers of both are clients running an application program under an operating system having a graphical user interface”. Specifically, Kawabata introduces a method of method displaying a character and advertisement data on a screen through a tuner (Kawabata, col 6, ln 17-24).

Kawabata also discloses, “the ... being produced by a media source's computer acting as a media server acting as a character controlling server”.

Specifically, Kawabata discloses a management server for character information and a content server (Kawabata, Fig 11).

Kawabata also discloses, "there also being connected to the network a computer operated by a content provider the method comprising the steps of". Specifically, Kawabata discloses a management server for character information and a content server (Kawabata, Fig 11).

Kawabata also discloses, "at the senders computer selecting characteristics of the greeting, including a character to present the greeting, the recipient and the message to be sent". Specifically, the management server allows one to select a character (Kawabata, Fig 12: Step 507-511).

Kawabata also discloses, "at the character controlling server, upon being contacted by the sender, sending to the recipient control signals that will produce on the recipients computer display a multimedia animated character delivering the message". Specifically, the content sends character display data (Kawabata, Fig 12, Step 512-517).

Kawabata also discloses, "said character being a changing image which appears on the content intrusively in a manner which is unpredictable for the recipient and which is completely beyond the his control". Specifically, the movement of the character in Kawabata is based upon configuration files and is out of the users control (Kawabata, col 5, ln 58-67).

Kawabata also discloses, "the control signals being determined by what executeable code is available on the user' computer". Specifically, Kawabata

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discloses executable code and other files on a system that determine how a character is displayed (Kawabata, col 5, ln 58-67).

Kawabata also discloses, "the server also providing a signal to the recipient which will call a page provided by the content provider as background to the character and remains after the message is delivered". Specifically, it is possible to have access to a homepage of an advertiser (Kawabata, col 12, ln 22-24).

Kawabata does not specifically disclose a "greeting". However, Linnett remedies this the disclosure of using a character to greet a user (Linnett, col 6, ln 33-37). It would obvious to one of ordinary skill in the art to add the greeting feature of Linnett to the character and advertising system of Kawabata. The motivation to do so would be to bid farewell or to introduce the character (Linnett, col 6, ln 30-37).

11. Claims 13 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawabata et al., US Patent Number 6,892,223 (Hereinafter, Kawabata) in view of Linnett et al., US Patent Number 5,682,469 (Hereinafter, Linnett and in further view of Nakisa, US Patent Number 6,968,315 (Hereinafter, Nakisa).

Regarding Claim 22, Kawabata and Linnett do not specifically disclose, "the method of claim 21 wherein the media source receives payment from the content provider based upon the number of times the content provider's page is

delivered as background to a greeting". Nakisa remedies this with the disclosure of using its advertising infrastructure to be equipped so as to allow clients, which access these pages to conduct transactions (Nakisa, col 3, ln 1-4). It would be obvious to one of ordinary skill at the time of the invention to modify character and advertisement system of Kawabata and greeting system of Linnett to be able to conduct transactions as in the disclosure of Nakisa. The motivation to combine the two references would be to order particular products or services and to pay for them over the Web (Nakisa, col 3, ln 3-5).

12. Claim 3 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawabata et al., US Patent Number 6,892,223 (Hereinafter, Kawabata) in view of Merrick et al., US Patent Number 6,433,784 (Hereinafter Merrick).

Regarding Claim 3, Kawabata discloses, "the method according to any preceding claim utilized in an operating system which produces multilayer window images on the screen". Specifically, Windows or MacOS produce multilayer windows on the screen (Kawabata, col 8, ln 60-65).

However, Kawabata does not specifically disclose "said character being located in the uppermost layer of the application program window, so that a user cannot move it off the screen or cover it with other objects". Merrick remedies this with the disclosure of the talking characters can be played in a stand-alone window floating on top of the desktop outside of any other application (Merrick,

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col 3, ln 54-57). It would be obvious to one of ordinary skill at the time of the invention to keep the animated character advertising system of Kawabata on top of the desktop as in Merrick. The motivation to combine the two references would be to keep the system unobstructed by other applications.

Regarding Claim 25, Kawabata also discloses, "operating system produces multilayered window images on the screen". Specifically, Windows or MacOS produce multilayer windows on the screen (Kawabata, col 8, ln 60-65).

However, Kawabata does not specifically disclose, "said media signals being configured to located the character in the uppermost layer of the application program window, so that a user cannot move it off the screen or cover it with other objects". Merrick remedies this with the disclosure of the talking characters can be played in a stand-alone window floating on top of the desktop outside of any other application (Merrick, col 3, ln 54-57). It would be obvious to one of ordinary skill at the time of the invention to keep the animated character advertising system of Kawabata on top of the desktop as in Merrick. The motivation to combine the two references would be to keep the system unobstructed by other applications.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Neven et al., US Patent Number 6,948,131: Communication System and Method Including Rich Media Tools.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashraf Zahr whose telephone number is (571) 270-1973. The examiner can normally be reached on Mon.-Thurs., 7:30 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frantz Coby can be reached on (571) 272-4017. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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9/16/2007


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